

IN THE SUPREME COURT OF THE STATE OF DELAWARE

PAMELA PARKER, ¹	§
	§ No. 161, 2021
Respondent Below,	§
Appellant,	§
	§ Court Below–Family Court
v.	§ of the State of Delaware
	§
GRAHAM BARNS, JR.,	§
	§ File No. CN20-03437
Petitioner Below,	§ Petition No. 20-16422
Appellee.	§
	§
	§ <u>In the interest of:</u>
	§ Graham Barns, III
	§ Katie Barns

Submitted: October 29, 2021

Decided: January 12, 2022

Before **SEITZ**, Chief Justice; **TRAYNOR** and **MONTGOMERY-REEVES**,
Justices.

ORDER

After careful consideration of the parties’ briefs and record on appeal, it
appears to the Court that:

(1) The appellant, Pamela Parker (the “Mother”), filed this appeal from an
April 27, 2021 Family Court order granting Graham Barns Jr.’s (the “Father”)
petition for custody. Having reviewed the parties’ respective arguments, we affirm
the Family Court’s judgment.

¹ The Court previously assigned pseudonyms to the parties pursuant to Supreme Court Rule 7(d).

(2) The parties are the parents of two children: a son, born in 2011, and a daughter, born in 2013. In August 2020, the Father filed a petition seeking shared physical custody of the children. On April 26, 2021, the Family Court held a hearing on the petition. The Family Court heard testimony from the parties, each of whom was represented by counsel, as well as the children's paternal grandfather, paternal great aunt, and maternal grandmother. Following the hearing, the Family Court issued a written decision awarding the parties joint legal custody and shared residential placement of the children. The Mother appeals.

(3) Our review of a decision of the Family Court extends to a review of the facts and law, as well as inferences and deductions made by the trial judge.² Our duty is to review the sufficiency of the evidence and to test the propriety of the findings.³ Findings of fact will not be disturbed on appeal unless they are determined to be clearly erroneous.⁴ We will not substitute our opinion for the inferences and deductions of the trial judge if they are supported by the record.⁵

(4) Under Delaware law, the Family Court is required to determine legal custody and residential arrangements for a child in accordance with the best interests

² *Wife (J.F.V.) v. Husband (O.W.V., Jr.)*, 402 A.2d 1202, 1204 (Del. 1979).

³ *Id.*

⁴ *Id.*

⁵ *Id.*

of the child.⁶ The criteria for determining the best interests of the child are set forth in 13 *Del. C.* § 722(a). The Family Court must tailor its custody order to “permit and encourage the child to have frequent and meaningful contact with both parents” unless it finds that the child’s contact with one parent would endanger the child’s physical health or impair his emotional development.⁷

(5) On appeal, the Mother argues that in its analysis of the best-interests factors, the Family Court did not give appropriate credit to her flexible work schedule and the fact that the children have lived primarily with her since the parties’ divorce.⁸ To the extent that the Mother challenges the weight that the Family Court gave the evidence that was presented at the custody hearing, this Court is unable to review her claims because the Mother failed to provide a copy of the transcript of the hearing. Supreme Court Rule 14 provides that the appellant is required to provide the Court with “such portions of the trial transcript as are necessary to give this Court a fair and accurate account of the context in which the claim of error occurred [as well as] a transcript of all evidence relevant to the challenged finding or conclusion.”⁹ In her notice of appeal, the Mother indicated that transcripts of the

⁶ 13 *Del. C.* § 722(a) (“The [Family] Court shall determine the legal custody and residential arrangements for a child in accordance with the best interests of the child.”).

⁷ 13 *Del. C.* § 728(a).

⁸ Although it is not clear from the record when the parties divorced, the Mother maintains in her opening brief that the parties divorced in February 2020.

⁹ Del. Supr. Ct. R. 14(e).

Family Court hearing were not necessary for the presentation of the claims of error that she intended to raise in her appeal. But in the absence of the transcript of the custody hearing, this Court is unable to review the Mother's claims of error regarding the Family Court's factual findings.

(6) In its opinion, the Family Court considered all of the factors set forth in Section 722 and concluded that factors one (the parties' wishes), two (the children's wishes), three (the children's interactions and interrelationships with the parties, extended relations, and other residents of the parties' respective households), five (the parties' physical and mental health), seven (the parties' history of domestic violence), and eight (the parties' criminal histories) were neutral—that is, none of these factors weighed for or against either party. The Family Court also found that factor four (the children's adjustment to their home and community) weighed slightly in favor of the Father and that factor six (the parties' past compliance with their parental responsibilities) weighed slightly in favor of the Mother. Upon review, we find no basis to disturb these findings on appeal. The Family Court properly applied the law to the facts in concluding that shared placement of the parties' young children was in their best interests.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Family Court is AFFIRMED.

BY THE COURT:

/s/ Tamika R. Montgomery-Reeves
Justice